GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

Tribal Welfare Department – Appeal petition filed by Sri Tirumalasetty Suresh Babu, S/o Penchalaiah, Malavya Nagar, Gudur Town& Mandal, SPSR Nellore District - against the proceedings D.Dis.No.1622/2013, dated 24.05.2015 of the District Collector, SPSR Nellore- under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) - Regulation of Issue of Community Certificates Act, 1993 (AP Act No.16/1993) – Appeal Petition allowed – Orders -Issued.

TRIBAL WELFARE (CV2) DEPARTMENT

G.O.Ms.No.16 Dated: 21.02.2018

Read the following:

1. Proceedings of the District Collector, SPSR Nellore, D.Dis.No.1622/2013, dated 24.05.2015.
2. Appeal Petition filed by Sri Tirumalasetty Suresh Babu, S/o Penchalaish, Malavya Nagar, Gudur Town& Mandal, SPSR Nellore District, before the M(SWE&TWE) on 18.06.2015.
3. Govt. Memo No.4849/CV.2/2015, dated 02.07.2015.
4. From the District Collector, SPSR Nellore, Lr.No.Rc.C5(M)1732/2015, dated 21.08.2015.
5. Govt. Memo No.4849/CV.2/2015, dated 30.11.2016, 12.01.2017 & 29.05.2017.
6. Govt. Memo No.4849/CV.2/2015, dated 24.11.2017.

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ORDER:

In the reference 1st read above, the District Collector, SPSR Nellore has issued orders canceling the ST –Yanadi caste Certificate obtained from the then Tahsildar, Gudur, in the year 1998, 2006 & 2012 by Sri Tirumalasetty Suresh Babu, S/o Penchalaiah.

2. In the reference 2nd read above, Sri Tirumalasetty Suresh Babu, S/o Penchalaiah, has filed an Appeal Petition before the Government, against the Proceedings of the District Collector, SPSR Nellore. After examining the said Appeal Petition, Government have admitted the Appeal Petition and granted stay on the proceedings of the District Collector, SPSR Nellore and called for the parawise remarks and connected records from the District Collector, SPSR Nellore in the reference 3rd read above.

3. In the reference 4th read above, the District Collector, SPSR Nellore has furnished the Parawise remarks and the connected records on the Appeal Petition filed by Sri Tirumalasetty Suresh Babu, S/o Penchalaiah.

4. The said Appeal Petition has been posted for hearing on 24.12.2016, 24.01.2017, 17.06.2017 and finally on 16.12.2017 and the same has been informed to the Appellant and the Counsel for the Appellant in the references 5th & 6th read above, and they were requested to attend for the hearing along with all Documentary Evidences/ Certificates in support of the community claim, failing which, it will be construed that there is no explanation what-so-ever to furnish in the matter and that the case will be decided based on the material available with the Government.

5. After hearing both the sides and on perusal of the records/ the copies of evidences/academic record/ grounds filed by the Appellant / the parawise remarks submitted by the District Collector, SPSR Nellore and proceedings of the District Collector, SPSR Nellore dated 24.05.2015, the Appellate Authority has observed that:

I. The appellant in his grounds has stated that his father belongs to ST-Yanadi community and his mother belongs to Kshatriya community and they came into contact as colleagues working as coolies at village and they have married and blessed with two children. Further he has stated that in the school records, his community recorded as ST-Yanadi community as his father belongs to ST-Yanadi community. Further he has also stated

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that the District Collector has cancelled his caste certificate without perusing and without giving any weight to the field evidences such as list of blood relatives, statement of Village Surpanch, statements of villagers and the statements of his own caste persons and the fact finding committee report of S.C/S.T Associations.

II. The appellant has also stated that the District Collector erred in stating that the appellant not practicing the Yanadi caste customs and traditions which are (stale) too old and which not possible to practice now in this modern society, such as Yanadi Sindhu, “Keelu Gurrala ata” marriage at Mid day, etc., He has stated that his marital status is not the criteria to decide caste of the person, encouraging inter caste marriages is a national policy, legal and appreciable, but it is not offence.

III. The District Level Scrutiny Committee is observed that, the Committee thoroughly verified the records furnished by the Appellant and opined that the then Mandal Revenue Officers/Tahsildars, Gudur have issued caste certificates to the Appellant in a routine manner but not thoroughly verified the anthropological and ethnological traits, deity, rituals, customs, mode of marriage, maternal and paternal relations, death ceremonies/method of burial of dead bodies etc., of that particular tribe of the individual. With a malafied intention, he has obtained certificates from the then Mandal Revenue Officers/Tahsildars, Gudur that he belongs to ST-Yanadi. Further, the Appellant is not in the fold of ST-Yanadi community and he was not accepted by the tribal society. His family members have marital relations with Kshatriya (OC) community only . The appellant has not followed the traditions & customs of Yanadi (ST) community. Further it is observed that before the DLSC, the appellant has not produced any relevant documents in support of his ST-Yanadi community claim and also not disclosed any information with regard to his wife and the details of his children’s caste enrolled in the school records. Further, the DLSC has opined that statements of the villagers and the others furnished by the Appellant are not reliable evidences as the same are given by the motivation of the Appellant. Finally, based on the DLSC findings, the District Collector, SPSR Nellore has cancelled the appellant’s ST-Yanadi caste certificate.

IV. Under section 6 of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (AP Act No.16/1993) the burden of proof lies on the Appellant only.

V. The Appellate Authority is observed that during the course of arguments, the appellant submitted his arguments stating that his father belongs to Yanadi community and he brought up in the same community as such he is also same community. Further, in his school records clearly shows that he is Yanadi as such on that score alone he is able to prove his caste is ST-Yanadi. On verification of the arguments and the documents and the grounds of appeal and para wise remarks as well as the other documents and material available on the record, it is noticed that the document pertaining to the enquiry report of Tahsildar, Gudur submitted to DEO, Nellore vide letter No. L Pari 69/2011, dated 31.01.2011 discloses that the appellant belongs to Yanadi caste. A reading between the lines of the document of enquiry report and on perusal of the genealogical chart of family tree and blood relatives of the appellant, the same are confirming that the caste of the appellant is Yanadi as such he comes under ST-Yanadi. Further, the appellant born and brought up in the community fold for which he is claiming and the appellant is accepted by the Community of his father and bought up by the father in the ST-Yanadi community as such the appellant shall be treated as Schedule Tribe Community. That taking consideration of the above and the material available on the record that it can be concluded that the lower authority failed to observe the finding of the concerned above.

(Contd., Page.3)

6. In view of the several reasons recorded in the paras supra, the Government, in exercise of the powers conferred under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (Act No.16 of 1993), hereby allow the Appeal Petition filed by Sri Tirumalasetty Suresh Babu, S/o Penchalaia, by upholding his Scheduled Tribe (Yanadi) claim and the Proceedings of the District Collector, SPSR Nellroe issued in the reference 1st read above are set- aside.

7. The District Collector, SPSR Nellore is directed to take necessary consequential action in the matter.

8. The records (containing D.Dis.No.1622/2013, pages 1-550) received from the District Collector, SSPR Nellore through the reference 4th read above, are returned herewith in original to the District Collector, SPSR Nellore and he is requested to acknowledge the receipt of the same, immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

S.S. RAWAT
PRINCIPAL SECRETARY TO GOVERNMENT

To
The District Collector, SPSR Nellore
(with original records) (BY RPAD)

Sri Sri Tirumalasetty Suresh Babu, S/o Penchalaiah,
R/o 1/429, Malavya Nagar, Gudur Town& Mandal,
SPSR Nellore District.

Sri Penumaka Venkata Rao, Advocate,
Plot No.294, H.No.11-13-1050/1,
Road No.11, Vasavi Colony,
Kothapeta, Hyderabad-35.

The School Education (Ser.) Department.

The District Educational Officer, SPSR Nellore.

Copy to :
The Director, TCR& TI, AP, Amaravathi.
The PS to M(SWE& TWE).
The PS to Prl. Secretary(SW&TW).

// FORWARDED:: BY ORDER //

SECTION OFFICER